

EXHIBIT 1

NEW ENGLAND COMPOUNDING PHARMACY INC. PRODUCTS LIABILITY
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1 are -- opining what was appropriate for individual
2 doctors to do.

3 Q. Uh-huh.

4 A. So I have testified on that in a number of
5 instances.

6 Q. Okay. Now, you told me a few moments ago, as
7 you discussed your background, that you did your
8 residency at Hopkins; was it in the pediatrics program?

9 A. Yes.

10 Q. And you completed the three-year pediatrics
11 residency at Hopkins?

12 A. I did.

13 Q. Are you board certified in pediatrics?

14 A. So I was for 30 years. I took my initial
15 boards, I took my recertification boards several times,
16 and I'm a professor of pediatrics; I've just chosen not
17 to take the recertification boards. I may at some
18 point. So at the moment I'm not board certified in
19 pediatrics, but I have been for some 30 years, and I'm a
20 professor of pediatrics.

21 Q. Your residency training in pediatrics was from
22 1979 to 1982 at Hopkins, correct?

23 A. Yes, sir.

24 Q. You are not board certified in the field in
25 which you obtained your residency training as you and I



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1 speak today, are you?

2 A. I'm not board certified, I'm board eligible. I
3 was board certified and I just chose not to sit for the
4 recertification.

5 Q. So your board certification in pediatrics
6 expired?

7 A. Several years ago when I decided not to just
8 sit for recertification.

9 Q. And when was that?

10 A. I'd have to go -- it was a few years ago.

11 Q. Did the American Board of Pediatrics have a
12 program called maintenance of certification?

13 A. Yes.

14 Q. Did you drop out of the maintenance of
15 certification process several years in advance of the
16 actual expiration date of your board certification?

17 A. You know, I'd have to check exactly what that
18 was, but I basically dropped out.

19 Q. Yeah.

20 A. But we'd have to find that exact. I don't
21 remember exactly the dates you are talking about.

22 Q. As you're probably familiar, a number of
23 hospitals will condition the ability to obtain staff
24 privileges at an institution upon a number of factors,
25 and one of which is frequently the physician's board



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1 certification by one of the authorized ABMS board
2 certifying entities; you are quite familiar with that?

3 A. I've chaired medical staff committees.

4 Q. Sure.

5 A. So I know that exactly.

6 Q. All right. Do you have staff privileges to
7 admit a patient to any hospital in greater
8 San Francisco?

9 A. I -- not at the moment. For 30 -- for my
10 entire career, medical director at Yale, here, I did.
11 But again, I gave that up the last several years. I'm
12 licensed to practice medicine.

13 Q. We've covered that.

14 A. I'm licensed to practice medicine, but I gave
15 that up. I gave up my privileges voluntarily just
16 because I, you know, spend most of my time doing
17 research, et cetera.

18 Q. How long has it been since you last had the
19 opportunity to admit a patient to any hospital where you
20 have had privileges in the past?

21 A. Last several years. I forget exactly when it
22 was.

23 Q. What's your best estimate of what year it was
24 that you surrendered your status of having admitting
25 privileges?



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1 A. I voluntarily didn't reapply.

2 Q. When would that have been?

3 A. I don't have the exact date.

4 Q. And where did you not reapply?

5 A. To the UCSF Medical Center, I had privileges
6 here. I was a hospitalist. And then I just -- I
7 decided to give that up.

8 Q. Okay. Did -- as you well know, it's common
9 with university teaching centers that frequently they
10 will have a flagship hospital, but they'll oftentimes
11 have relationships with hospitals in the community so
12 they can give their residents more of a varied
13 experience. Do you know what I'm talking about?

14 A. Yes.

15 Q. All right. Did you have staff privileges
16 anywhere other than UCSF?

17 A. I'd have to double-check. I'm pretty sure I
18 had staff privileges at San Francisco General, certainly
19 giving grand rounds there, et cetera. But I believe all
20 my active hospitalist duties were at UCSF.

21 Q. Okay.

22 A. I've lectured at the other places, I've taught
23 at the other places, but I think I've only actually seen
24 patients at UCSF.

25 Q. Can you tell me the last year you actually



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1 recall admitting a patient to the hospital as the
2 attending physician?

3 A. I'd have to go back and check. It was during
4 my hospitalist -- when I was a hospitalist. And even
5 then, I probably didn't admit -- the residents probably
6 admitted and admitted under my name.

7 Q. Right.

8 A. But, I mean, certainly in the 2000s --
9 somewhere -- I don't know the exact date.

10 Q. When did your tour as a hospitalist come to an
11 end?

12 A. I don't know. I probably stopped being a
13 hospitalist 2007 or so. 2008. But that's just an
14 approximation.

15 Q. And as a hospitalist, were you paid a thousand
16 dollars an hour for your services?

17 A. So I didn't -- I was paid by the State of
18 California. We didn't bill by the hour.

19 Q. Well, did your compensation for working as a
20 hospitalist come close to the thousand-dollar-an-hour
21 charge for the time talking to me today?

22 A. My salary was a matter of public record. We
23 can go back and look and you can calculate hours and
24 what that comes to.

25 Q. Do you know what the comparison was?



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1 Q. Have you had any litigation with any law firms
2 over your testimony or your fees?

3 A. No.

4 Q. Okay. I mentioned earlier, when we first
5 started talking, that the FDA website reflects that you
6 were the commissioner of the Food, Drug and Cosmetics
7 Agency from November 8th, 19 --

8 A. Food and Drug Administration.

9 Q. Okay. Food and Drug Administration.

10 A. Please.

11 Q. I'll get it.

12 A. Thank you.

13 Q. The website reflects your tour of duty was
14 November 8th, 1990 to February 28th, 1997. Does that
15 sound correct?

16 A. Again, that sounds correct. That was
17 probably -- we have to check when I became -- officially
18 it was confirmed. I probably didn't start until
19 December, I think I mentioned to you.

20 Q. You did.

21 When did you actually become employed by Yale
22 University?

23 A. Probably July 1st, 2000 -- I'm guessing July
24 1st, 1997.

25 Q. When you left the FDA, did you already have, in



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1 hand, an offer to join Yale?

2 A. No, I did not. I deliberately didn't -- I had
3 no contact with Yale prior to FDA.

4 Q. Do you remember my request at the beginning
5 that I ask succinct questions and you give me a succinct
6 answer? I'd like to ask it again.

7 When you left the FDA, did you have a job offer
8 in hand from Yale University?

9 MR. ARBITBLIT: Objection. Asked and answered,
10 Counsel.

11 THE WITNESS: If my answer was -- is direct as
12 I could be, was no, I did not.

13 MR. GIDEON: Good.

14 THE WITNESS: I mean, it's on the record.

15 MR. GIDEON: Q. Okay. How long did it
16 take you before you found employment after leaving
17 the FDA February 28th, 1997?

18 A. I think in a matter of days. I think that
19 weekend, if I'm right. I don't remember exactly which
20 weekend it was, I recall coming home from the
21 dry-cleaner and my wife saying Rick Levin called and he
22 asked whether you want to be dean of Yale Medical
23 School.

24 Q. Was Rick Levin the chairman or chancellor of
25 Yale University?



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1 A. He was the president. So I think it was a
2 matter of very soon thereafter. That call from Rick was
3 unsolicited.

4 Q. Okay. You handed us, and we're going to
5 exhibit them in a few moments, two green binders that
6 reflected correspondence from a lawyer on your behalf to
7 Dr. Miller.

8 A. And --

9 Q. And --

10 A. And a letter from me to Dr. Miller.

11 Q. Fine. I haven't had a chance to look at them.
12 I haven't had a chance to read the pages, so I don't
13 know the content.

14 A. Uh-huh.

15 Q. But you did mention, when you were describing
16 them, there was some kind of either formal or informal
17 audit document attached to one of the letters.

18 Do you recall that?

19 A. Yes.

20 Q. Okay. Was there an evaluation audit or
21 examination of your billing the FDA for travel-related
22 expenses at the time you left on February 28th, 1997?

23 A. Can I have those documents?

24 Q. Sure.

25 A. So as I -- as I remember --



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